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DENNIS MONTGOMERY, the MONTGOMERY FAMILY  
11 TRUST, EDRA BLIXSETH and OPSRING LLC

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14  
15 DENNIS MONTGOMERY and the  
MONTGOMERY FAMILY TRUST,

16 Plaintiffs,

17 vs.

18 ETREPPID TECHNOLOGIES, LLC, WARREN  
19 TREPP, and the UNITED STATES  
DEPARTMENT OF DEFENSE,

20 Defendants.  
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28  
AND RELATED CASES.

) Case No. 3:06-CV-00056-PMP-VPC  
) BASE FILE

) (Consolidated with Case No. 3:06-CV-  
) 00145-PMP-VPC)

) **JOINT STIPULATION OF FACT**

Judgment Debtors Dennis Montgomery, Brenda Montgomery and the Montgomery Family Trust ("Montgomery Judgment Debtors"), Judgment Debtor Blxware, LLC ("Blxware Judgment Debtor"), and Judgment Creditors eTreppid Technologies, L.L.C. and Warren Trepp ("eTreppid Judgment Creditors") jointly submit this stipulation of fact.

### **Definitions and Comments**

The following terms, definitions and comments shall apply to this Stipulation:

A. The term "party" shall mean, individually or collectively, Montgomery Judgment Debtors, Blxware Judgment Debtor, eTreppid Judgment Creditors and any other entity who appears in this litigation as an intervenor or who files a pleading constituting a notice of appearance.

B. The word "any" shall include both "any" and "every."

C. The words "and/or" shall be construed conjunctively and disjunctively to bring within the ambit of this stipulation the necessary documents and/or things, and information derived therefrom.

D. The singular shall include the plural and vice versa, and the words in any gender shall include the other gender.

### **Stipulations**

It is hereby stipulated among the parties that:

A. On January 14, 2009, Blxware Judgment Debtor entered into a 90 (ninety) day contract with an agency of the Federal Government (hereinafter "U.S. Government agency").

B. The contract between Blxware Judgment Debtor and the U.S. Government agency (hereinafter the "Contract") does not exceed \$3 (three) million and provides in part for limited consulting services from Dennis Montgomery ("Mr. Montgomery"), a Montgomery Judgment Debtor and, separately, an employee and/or in an employment relationship with Blxware Judgment Debtor.

C. The contract between Blxware Judgment Debtor and the U.S. Government agency is scheduled to terminate on April 15, 2009, unless otherwise extended 45 (forty-five) days to May 30, 2009, to permit certain performance by Mr. Montgomery and Blxware Judgment Debtor.

1 D. Blxware Judgment Debtor submitted several invoices to the U.S. Government  
2 agency concerning the contract. The first set of invoices totaled \$2 (two) million (hereinafter  
3 "Invoice No. 1"). The second invoice totaled \$500,000 (five hundred thousand) (hereinafter  
4 "Invoice No. 2").

5 E. On February 5, 2009, the U.S. Government agency transferred \$2 (two) million to  
6 Blxware Judgment Debtor in satisfaction of "Invoice No. 1."

7 F. On April 6, 2009, the U.S. Government agency transferred \$500,000 (five hundred  
8 thousand) to Blxware Judgment Debtor in satisfaction of "Invoice No. 2."

9 G. Blxware Judgment Debtor has not submitted and the U.S. Government agency has  
10 not been requested to remit payment for any consulting services by Mr. Montgomery.

11 J. No further inquiry by eTreppid Judgment Creditors shall be conducted nor shall  
12 there be disclosure by Montgomery Judgment Debtors or Blxware Judgment Debtor regarding this  
13 government contract or activities in connection with this contract in this action. However, the  
14 parties reserve their right to seek further information as to the government contract or activities  
15 performed by either Montgomery Judgment Debtors or Blxware Judgment Debtor concerning this  
16 contract subject to a request that the United States authorize release of further information  
17 concerning this contract or pursuant to an appropriate Court order.

#### 18 Relationship to State Secrets

19 The United States Protective Order, entered by the Court on August 29, 2007, and  
20 upholding the government's assertion of military and states secret privilege regarding information  
21 as identified in said protective order, remains in effect. Accordingly, no party is to disclose or  
22 produce information subject to the August 29, 2007 United States Protective Order.

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1 The foregoing is agreed to by Montgomery Judgment Debtors, Blxware Judgment Debtor,  
2 and eTreppid Judgment Creditors.

3  
4 Dated: April 17, 2009

Respectfully submitted,

5  
6 /s/ Ellyn S. Garofalo

Ellyn S. Garofalo, Esq.

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13  
14 Dated: April \_\_\_\_\_, 2009

/s/ J. Stephen Peek

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28 Cross-Defendant Warren Trepp

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices of Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP, and that on April 17, 2009, I caused to be served the within document described as **JOINT STIPULATION OF FACT** on the interested parties in this action as stated below:

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1 ☒ **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and  
2 therefore the court's computer system has electronically delivered a copy of the foregoing  
document(s) to the persons listed above at their respective email address.

3 I declare under penalty of perjury under the laws of the State of California and the United  
4 States of America that the foregoing is true and correct.

5 Executed on April 17, 2009, at Los Angeles, California.

6 Ellyn S. Garofalo  
(Type or print name)

/s/ Ellyn S. Garofalo  
(Signature)